IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.383 OF 2005

Raju Uttam Kamble & Ors. ..Petitioners.

Vs.

Union of India & Ors. ..Respondents.

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Mrs.S.A.Marne i/b Mr.S.V.Marne for the Petitioners.

Mr.T.J.Pandian i/b Mr.M.R.Appan for the Respondents.

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CORAM : A.P.SHAH,

DR.D.Y.CHANDRACHUD, JJ.

13th July, 2005.

P.C. :

1. Rule, by consent made returnable forthwith. Counsel appearing on behalf of the Respondents waives service. By consent taken up for hearing and final disposal.

2. According to the Petitioners they were engaged as casual labourers by various authorities under the jurisdiction of the Central Railways between 1982 and 1984. All the Petitioners claim to have been issued casual labour cards including

therein reference to the services rendered by them. The details thereof have been furnished in paragraph 2 of the Writ Petition as follows :

Sr.No.	Name	Card	Period	Depot
1.	Raju Uttam Kamble	316288	24-4-83 to 18-12-83	BRI(C)PA
2.	Moti Sopan Zhade	311242	19-12-83 to 27-7-84	IOW(C) SEGL LNL
3.	Prakash Gulab	253438	02-04-83 to 26-10-83	BRI(C)PA
4.	Wilson Francis Ohol	253422	29-8-83 to 19-9-83	BRI(C)PA
5.	Bharat Shivram	311238	27-01-84 to 19-7-85	IOW(C) SEGL LNL
6.	Vishwanath B. Ohal	324063	25-5-83 to 16-6-83	Chief Goods Suptd.LNL
7.	Ashok Kashinath	316337	21-1-84 to 18-3-84	BRI(C)PA
8.	Joseph Laban Shinde	254106	19-2-82 to 18-3-82	IOW(C) PA

3. The Railway Board framed a scheme for regularization of casual labourers on 9th October, 1998. In pursuance thereof the Divisional Railway Manager, Central Railways issued a circular on 15th July, 1999 calling for applications from all casual labourers working in the Mumbai Division for preparing an assessment as regards the number of

casual labourers eligible for regularization. The Petitioners submitted applications in response to the aforesaid circular and since these were not accepted by the Second Respondent, the Central Administrative Tribunal was moved in O.A. 899 of 1999 by the Pune Railway Casual Labour Union. The Tribunal disposed of the application on 19th April, 2001, directing the Respondents to call for information from the Petitioners and to consider the same in accordance with law.

4. The Second Respondent thereafter issued a notification on 3rd October, 2001 under which casual labourers were to submit applications for the purpose of making an assessment of eligible labourers for appointment in the Group D category. The last date for the submission of applications was 29th October, 2001. According to the Petitioners, the notification was received by their Depot Incharge viz. Deputy Chief Engineer (Construction) after the cut off date on 1st November, 2001. In response to the notification, the Petitioners submitted their applications in the requisite proforma to the Depot Incharge in November, 2001 and forwarded copies thereof to the

Second Respondent directly by Registered Post A.D. Thereupon since nothing further was heard, the Petitioners made representations on 29th November, 2001 and 2nd January, 2002. Since the applications filed by the Petitioners were not screened, the Petitioners move the Central Administrative Tribunal once again in O.A. 577 of 2002.

5. In the reply which was filed by the Respondents, it was, inter alia, contended that the Petitioners had not annexed copies of their casual labour cards with the O.A. In their rejoinder, the Petitioners produced copies of the casual labour cards. Since the Respondents raised doubts about the cards submitted by the Petitioners it has been stated that the Petitioners filed an additional affidavit producing copies of a proforma submitted by Petitioners 3 and 4 in the year 1994 wherein their services were verified.

6. By the impugned judgment and order dated 13th February, 2004 the Tribunal dismissed the application. The Tribunal held that under the circular dated 3rd October, 2001 of the Divisional Railway Manager, the Depot Incharge was to make out

a list of candidates whose particulars were received in a prescribed proforma and to remit the same to the Divisional Railway Manager (P) immediately after the last date of 29th October, 2001 for the receipt of particulars. The Tribunal held that the applications could not have been submitted directly to the Divisional Railway Manager (DRM). In the present case, it was noted by the Tribunal that none of the applications were verified by the Depot Officer Incharge and there was no question of the Respondents taking any action on applications which were not submitted to the Depot Incharge as required by the notification dated 3rd October, 2001. The Tribunal has also come to the conclusion that the applicants had not annexed copies of official documents with the O.A. to show that they had worked to the Railways. In these circumstances, the application has been dismissed.

7. In support of this Petition, it has been urged that by orders dated 21st February, 2001 and 20th September, 2001 the Railway Board had relaxed the conditions for regularization and under the conditions as relaxed a casual labourer has to

fulfil the requirement of (i) 120 days' of casual service (ii) being literate and (iii) falling within the prescribed age group of 40 years for general candidates, 43 years for OBC candidates and 45 years for SC/ST candidates. It has been submitted that the Petitioners fulfil the requisite condition. It has been submitted that the only direction which had been sought was for the applications to be screened by the Respondent authorities in accordance with law and several other similarly placed casual labourers have since been regularized. Moreover, it has been submitted that the circular of the Second Respondent dated 3rd October, 2001 was received in the office of the Depot Incharge only on 1st November, 2001 and hence, the application could not be submitted by the last date on 29th October, 2001. According to the Petitioners their applications were forwarded on 22nd, 23rd and 24th November, 2001 to the DRM in addition to the submission of applications to the Depot Incharge. According to the Petitioners, by a letter dated 29th January, 2002, the Deputy Chief Engineer had informed the DRM that it was not possible to verify the applications due to non availability of records. Hence, 22 applications

were returned to the DRM without verification. The Petitioners have also averred that on 27th April, 2004 the Deputy Chief Engineer called for the list of 22 labourers whose applications were forwarded by him to the DRM(P) and the aforesaid list was forwarded by the DRM(P) on 6th May, 2004. The names of all the Petitioners except Petitioner No.6 are stated to be mentioned in the said list. The Petitioners have submitted that in these circumstances, the Tribunal has adopted a rather technical approach and since, the process of regularization is in progress even now, no sanctity can be attached to to the specific date for the submission of applications. Finally, it has been submitted that the Petitioners had produced copies of the casual labour cards together with their rejoinder despite which a factually incorrect finding was arrived at by the Tribunal.

8. We have heard learned counsel appearing on behalf of the Petitioners and for the Respondents and have perused the reply filed by the Respondents in these proceedings. In our view, it was only appropriate and proper that the applications which have been submitted by the

Petitioners should be scrutinized by the Respondent authorities in accordance with law. The Petitioners have relied upon adequate material in these proceedings to establish that they have submitted their applications. Even assuming that those applications did reach after the last date, the Petitioners did have a valid explanation, namely, the late receipt of the circular in the office of the Depot-in-charge. Before the Tribunal copies of the casual labour cards were produced with the rejoinder. The genuineness and authenticity of the material that has been relied upon by the Petitioners must be considered by the Respondent authority and we express no opinion on that aspect of the matter. However, it would be manifestly unjust to deprive the Petitioners of an opportunity of having their applications for assessment scrutinized in accordance with law, by the Respondent authorities. In order to facilitate a determination in accordance with law, we quash and set aside the impugned judgment and order of the Central Administrative Tribunal dated 13th February, 2004 in O.A. 577 of 2002. The Respondents are directed to scrutinize the applications submitted by the Petitioners in

accordance with law in pursuance of the directions issued on 19th April, 2001 by the Central Administrative Tribunal in O.A. 899 of 1999. The Respondents shall take a final decision upon scrutiny within a period of six months from today.

The Petition is accordingly disposed of. No costs.